



## Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Stephen M. Haase

**SUBJECT:** SEE BELOW

**DATE:** August 18, 2004

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**COUNCIL DISTRICT:** 5

**SUBJECT: GP04-05-02 and PDC04-022. THE ITEMS BEING CONSIDERED ARE LOCATED AT THE NORTHWEST CORNER OF STORY ROAD (13875 STORY ROAD) AND LYNDAL AVENUE ON A 0.12-ACRE SITE:**

- 1) **GENERAL PLAN AMENDMENT TO CHANGE THE LAND USE/TRANSPORTATION DIAGRAM DESIGNATION FROM MEDIUM LOW DENSITY RESIDENTIAL (8 DU/AC) TO OFFICE.**
- 2) **PLANNED DEVELOPMENT PREZONING FROM COUNTY TO A(PD) PLANNED DEVELOPMENT ZONING DISTRICT.**

### RECOMMENDATION

The Planning Commission voted 5-0-2 (Commissioners Platten and Campos absent) to recommend that the City Council approve the proposed General Plan amendment to the Land Use/Transportation Diagram from Medium Low Density Residential (8.0 DU/AC) to Office.

The Planning Commission voted 3-2-2 (Commissioners Levy and Dhillon opposed; Commissioners Platten and Campos absent) on a motion to recommend that the City Council approve the proposed ordinance for pre-zoning from County to an A(PD) Planned Development zoning district with development standards proposed by staff. Because a majority was not reached on the motion, the zoning application will go to the City Council with a recommendation that the ordinance not be adopted.

### BACKGROUND

On August 11, 2004, the Planning Commission held a public hearing to consider a General Plan amendment request to change the Land Use/Transportation Diagram from Medium Low Density Residential (8.0 DU/AC) to Office and a Planned Development pre-zoning application to change the zoning district for the subject site from Unincorporated County to A(PD) Planned

Development. The proposed pre-zoning would allow for office uses on the site, consistent with the proposed General Plan amendment.

The applicant's representative, as well as the property owner and a current tenant of the site, spoke in favor of the proposed project and concurred with staff's recommendation to change the General Plan land use designation to Office and approve the Planned Development pre-zoning. However, the applicant's representatives did not agree with staff's recommendations for: 1) a 25-foot front setback and 2) prohibition of tandem parking as part of the proposed PD pre-zoning.

The property owner, Mr. Sunzeri, indicated that he has owned the property since 1986. At that time, the property was already used for offices. Since then, tenants have conducted a bilingual business that serves the community with income tax, notary, insurance, real estate, and travel services. The property owner indicated that the proposed parking and landscaping requirements would cause a financial hardship.

The tenant, Mr. Nunez, also addressed the Planning Commission and stated that he has operated his business on the site for the past 17 years. Mr. Nunez stated that he belongs to the Story Road Neighborhood Business Association and contributes to other organizations within the community. Additionally, he stated that there are other sites in the area that are being used for businesses, which may indicate that there is a neighborhood need for these services. The tenant, Mr. Nunez, provided the Commission with letters from neighbors to support the project.

#### Commission Discussion

Commissioners Levy and James had questions about the parking as proposed by the applicant and staff. Commissioner Levy indicated that the parking, as proposed by staff, raised some concerns about the ability to navigate behind the building, the loss of the tree in the rear, and disturbance to the neighbors in the rear. Commissioner Levy asked if there was any middle ground to address the parking issue, and if there is the possibility to park off-site. Planning staff helped clarify the differences between staff's and the applicant's proposals and identified staff's concerns with the applicant's proposal. Staff explained that the development standards would allow for a minimum of four on-site parking stalls, which could be met by a minor variation to the applicant's proposal. Instead of parking in the front setback area (facing Lyndale Avenue), the parking could be relocated to the rear of the building. Cars would be independently accessible and maneuver with a three-point turn to avoid backing out onto Lyndale Avenue.

Commissioner James asked about the viability of keeping the tree if parking were located in the rear, and he also asked about the feasibility about a driveway onto Story Road. Staff indicated that tree removal may be required to facilitate parking, but there would be tree mitigation to replace any tree loss. Staff added that access to Story Road from the site was considered an option, but not pursued further since there was a feasible solution with staff's recommendation that did not require an additional driveway access to Story Road. However, staff agreed that access to Story Road is an idea that can be explored further with the Department of Transportation and Department of Public Works.

Staff explained in more detail the issues raised by the applicant's conceptual parking arrangement. The proposed tandem parking spaces, which had been identified as employee parking, potentially eliminates the independent use of two stalls by customers, because there is the potential to be blocked or to block someone else's car. This may cause parking spill over into the neighborhood, which was identified as a concern by the East Valley/680 Communities Strong Neighborhood Initiative Neighborhood Advisory Committee (NAC). Additionally, the concrete area in the front setback area, as proposed, could be used as a parking stall, which would eliminate the 3-point turning capability and lead to cars backing out onto Lyndale Avenue.

Commissioner Dhillon asked for the City Attorney's clarification as to whether there was legal non-conforming status for the existing use at the site and if there was a way to minimize conditions and the amount of money the applicant would need to spend for improvements.

The City Attorney explained that in order to have legal non-conforming status, the use would need to have been legally established in the County. Both staff and the applicant indicated the existing use was not legally established in the County. The applicant indicated that a County Code Enforcement action was the impetus for filing the proposed General Plan amendment and Planned Development pre-zoning to attempt to legalize the existing uses on the property.

Commissioner Levy revisited the idea of parking options. Since the 15-foot dedication along Story Road would not be required, Commissioner Levy asked about the feasibility of parking within the Story Road setback area. Staff expressed concern about vehicles backing out onto Story Road, but reiterated that a curb cut along Story Road for exiting could be further explored. Commissioner Levy's concern about staff's proposed development standards is that they might create a potential hardship for the applicant. This hardship would defeat the purpose of trying to keep a small business in the City.

Planning staff clarified for the Commission that staff's recommendation does not consider the applicant's financial situation. Staff instead assesses whether the proposed use and development standards are consistent with the City's policies and ordinances. Staff is proposing development standards for the project that would support City Council policies and guidelines for conversion of residential uses while maintaining the existing setback. Staff believes the development standards are appropriate given the context of the larger neighborhood and agreed to work with the applicant at the Planned Development permit stage to create a mutually acceptable project. The applicant agreed to work with staff. However, the applicant stated that he would like to revise the 25-foot setback requirement proposed by staff. When the Planning Commission asked what setback would be feasible, the applicant stated that an eight feet front setback was preferred.

Commissioner Zito made a motion to approve the General Plan amendment. The Planning Commission voted (5-0-2; Commissioners Platten and Campos absent) to approve the General Plan amendment to Office.



Commissioner Zito made a motion to approve the Planned Development pre-zoning application with staff's proposed development standards. The Planning Commission voted 3-2-2 (Commissioners Levy and Dhillon opposed; Commissioners Platten and Campos absent) on the motion. Because a majority was not reached, the zoning application will go to the City Council with a recommendation that the ordinance not be adopted.

Commissioner Zito explained the reasons behind his decision, stating that he agreed with staff's recommendation for a front 25-foot setback to be consistent with the neighboring properties, and that the 8-foot setback proposed by the applicant would be too small. Additionally, Commissioner Zito indicated that staff should work with the applicant to devise an acceptable parking plan.

Commissioner Dhillon expressed concern about the financial hardship imposed on the applicant to construct the potential improvements such as curb, gutter, and sidewalk. Staff reiterated some key points: financial considerations are not part of staff's review; this is a standard condition; and further review would occur during the Planned Development permit stage to determine whether the sidewalk would need to be constructed.

Commissioner Levy agreed with Commissioner Dhillon, and indicated that the City's improvements would be a financial hardship, which would defeat the purpose of having this business annex into the City and survive as business.

The Commissioners agreed that the proposed ordinance proceed to the City Council hearing with a recommendation that the ordinance not be adopted.

### **PUBLIC OUTREACH**

The property owners and tenants within a 1000-foot radius of the amendment site were sent a newsletter regarding the two community meetings that were held on June 24 and 30, 2004 to discuss the proposed General Plan amendment and Planned Development zoning. They also received a notice regarding the public hearings to be held on the General Plan amendment and Planned Development zoning before the Planning Commission in August and City Council in September. In addition, the community can be kept informed about the status of amendments on the Department's web site, and staff has been available to discuss the project with members of the public.

The proposed General Plan amendment was presented to the East Valley/680 Communities Strong Neighborhood Initiative Neighborhood Advisory Committee (SNI NAC) meeting in March 2004. The Lyndale Neighborhood Association was also contacted regarding the proposed project. At the June 2004 NAC meeting, staff asked for input regarding a potential land use change to Neighborhood/Community Commercial from Lyndale Avenue to White Road. Members of the NAC generally agreed with the concept, but expressed concerns about commercial intrusion into the residential neighborhood north of Story Road, as well as concerns about eminent domain, parking spillover, and existing homeowners being pushed out by big developers.

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### COORDINATION

This project was coordinated with the Department of Public Works, the Department of Transportation, the Fire Department, the Environmental Services Department, and the City Attorney.

### CEQA

A Mitigated Negative Declaration was adopted on August 11, 2004.

  
for STEPHEN M. HAASE  
Secretary, Planning Commission